



## CITIZENS' WATER ADVISORY COMMITTEE

Wednesday, December 7, 2011

Tucson Water Building, 310 W. Alameda, 3rd Floor Director's  
Conference Room, Tucson, Arizona

### \*REVISED LEGAL ACTION REPORT

#### 1. Call to Order

The meeting was called to order by Chair Canfield at 7:11 a.m. Those present and absent were:

##### Present:

Christopher Brooks	Representative, City Manager
W. Mark Day	Representative, City Manager
Mark Taylor, Vice Chair	Representative, City Manager
Brian Wong	Representative, City Manager
Catlow Shipek	Representative, City Manager
Chuck Freitas	Representative, City Manager
Bruce Billings	Representative, Ward 3
Vince Vasquez	Representative, Ward 4
Evan Canfield, Chair	Representative, Ward 5
Kelly Lee	Representative, Ward 6
Sandy Elder	Tucson Water Interim Director, Ex-Officio Member
Jackson Jenkins	Pima County Regional Water Reclamation Director, Ex-Officio Member

##### Absent:

Thomas Meixner	Representative, City Manager
Amy McCoy	Representative, Ward 2

##### Staff Members Present:

Andrew Quigley	Assistant City Manager
Chris Avery	Assistant City Attorney
Ivey Schmitz	Tucson Water Deputy Director
Belinda Oden	Tucson Water Business Services Administrator
Joe Olsen	Tucson Water Interim Deputy Director
Fernando Molina	Tucson Water Public Information Officer
Patricia Eisenberg	Tucson Water Engineering Administrator
Stephen Dean	Tucson Water-Water Administration
Asia Philbin	Tucson Water Hydrologist
Wally Wilson	Tucson Water Lead Hydrologist
Theresa Bourne	Tucson Water Staff Assistant
Mac Hudson	City of Tucson Ward 1 Council Admin. Assistant
Nicole Ewing-Gavin	Assistant to the City Manager
Diane Garcia	Environmental Services Executive Assistant
Delma Sanchez	City Clerk's Office Recording Secretary

**Others Present:**

Kara Festa	Westland Resources Principle
Tony Marrs	Camino Verde Limited Partnership General Partner (Camino Verde Village)
Kit Marrs	AW Marrs Inc. Vice President
Dick Geldke	Citizen
Karen Wilson	Pima County Regional Wastewater Reclamation Department
Lisa Hoskin	Metropolitan Pima Alliance Government Relations Director
David Godlewski	SAHBA President
Michael Block	Metro Water District, District Hydrologist
Kathleen Chavez	Pima County Water Policy Manager
Claire Zucker	Pima Association of Governments Watershed Management Coordinator

**2. Announcements**

There were no announcements presented.

**3. Call to Audience**

David Godlewski, President, SAHBA and Lisa Hoskin, Government Relations Director, Metropolitan Pima Alliance, addressed the annual review of the Tucson Water Service Area Policy.

**4. Review of November 2, 2011 Legal Action Report**

No changes to the November 2, 2011 Legal Action Report were suggested.

**5. Director's Report - (Sandy Elder)**

**a. Mayor and Council Items**

Update was given by Sandy Elder, Tucson Water Interim Director. No action taken.

**6. Tucson Water Financial Items**

**a. Discussion of System Equity Fee - (Belinda Oden)**

Presentation was given by Belinda Oden, Tucson Water Business Services Administrator on Tucson Water's System Equity Fee. Question and answer period followed.

It was moved by Committee Member Freitas, duly seconded, and carried by a roll call vote of 10-0 (Committee Members McCoy and Meixner absent) to approve the System Equity Fee as presented.

**b. Discussion of Water Resource Fee - (Belinda Oden)**

Presentation was given by Belinda Oden, Tucson Water Business Services Administrator on Tucson Water's Water Resource Fee. Question and answer period followed.

It was moved by Committee Member Freitas, duly seconded, and carried by a roll call vote of 10-0 (Committee Members McCoy and Meixner absent) to approve the CAP Water Resource Fee as proposed by staff and reported by the Finance Subcommittee.

**7. Recommendation of Changes to Water Service Area Policy - (Chris Brooks/Joe Olsen)**

Presentation was given by Joe Olsen, Tucson Water Interim Deputy Director and Committee Member Christopher Brooks on nine (9) recommended changes to the Water Service Area Policy. Committee Member Brooks stated that the Technical, Planning, and Policy Subcommittee went through the recommended changes, and based on the schedule for the work plan that was presented, he recommended the changes be moved forward and presented to the Mayor and Council.

It was moved by Committee Member Brooks, duly seconded, to accept the recommended changes to the Water Service Area Policy as presented by the Technical, Planning, and Policy Subcommittee and instruct staff to move forward those changes to the Mayor and Council. (See Attachment #1)

Committee Member Vasquez stated he reviewed the letters presented by SAHBA and TAR (Tucson Association of Realtors), and tried to incorporate some changes in the recommended changes by the Technical, Planning, and Policy Subcommittee to the Water Service Area Policy.

Committee Member Vasquez introduced some of the changes to the Water Service Area Policy from the original recommendation that was presented. (See Attachment #2) Question and answer period followed.

- \* A substitute motion was made by Committee Member Vasquez, duly seconded, and failed by a roll call vote of 3-7 (Committee Members Taylor, Vasquez and Lee **assenting**; Committee Members McCoy and Meixner absent) to accept his original recommended language, less the agreed upon changes to items 2, 3, 4, 5, 6, 7, 9, and deleting 8. (See Attachment #3)

A second substitute motion was moved by Committee Member Freitas, duly seconded, and carried by a roll call vote of 8-2 (Committee Members Vasquez and K. Lee dissenting; Committee Members McCoy and Meixner absent) to approve the recommended changes by Committee Member Vasquez to items 1, 2, and 7, and approval of the Technical, Planning, and Policy Subcommittee's original recommendations to items 3, 4, 5, 6, 8, and 9. (See Attachment #4)

**8. Election of CWAC Chair and Vice Chair for 2012**

- \* It was moved by Committee Member Day, duly seconded, and carried by a voice vote of 10-0 (Committee Members McCoy and Meixner absent) to **elect** Mark Taylor as Chair and Christopher Brooks as Vice Chair of CWAC for Calendar 2012.

**9. ARRA Booster Efficiency Project Status Report - (Asia Philbin)**

Item not discussed.

**10. Ward Perspective - (Mac Hudson)**

Item not discussed.

**11. ADD Water Status - (Chris Avery)**

Item not discussed.

**12. Subcommittee Reports**

**a. Technical, Policy, and Planning Subcommittee**

Item not discussed.

**b. Finance Subcommittee**

Item not discussed.

**c. Conservation and Education Subcommittee**

Item not discussed.

**13. Future Meetings / Agenda Items**

*Other Future Items: Residential Rate Block Structure, Water Sustainability Action Plan, CWAC Rules & Regulations, BOR Colorado River Basin Study, State Water Resources Development Commission, Water Reservoir Management Study, Energy and Water Security*

Items not discussed.

**14. Call to Audience**

No one spoke.

**15. Adjournment**

Meeting was adjourned at 9:08 a.m.

**DRAFT LIST OF RECOMMENDATIONS**  
**Refinements to City of Tucson Water Service Area Policy**  
**Approved by CWAC; Technical, Planning, and Policy Subcommittee 6-0; 15 Nov 11**

1. Streamline the Pre-Annexation and Development Agreement (PADA) process running it parallel to water service review. The typical duration for a master and design water plan to navigate the review process is three months and performing this review up to the point of final approval while the PADA process takes place saves the owner/developer significant time. This enables the owner/developer to have an approved water plan immediately after PADA approval by Mayor and Council as opposed to waiting until the PADA approval to initiate plan review efforts.
2. Clarify that the 20 acre threshold for defining infill relates to net developable land on the property rather than gross acreage of the property.
3. Increase the infill size threshold for commercial developments from 20 acres to 50 acres, which relates to the equivalent water demand for a 20 acre residential development. For mixed use developments, the 50 acre criteria will apply if the residential portion of the development is less than 20 acres.
4. Clarify that the infill criteria and economic development exemption are only applied in the yellow (non-expansion) areas, as water service is already assured in pink (expansion) areas through PADA or annexation.
5. Clarify existing grandfather rights when infrastructure investment has already begun. An overall master plan which has substantial infrastructure installed and "finaled" shall be grandfathered for the entire master planned development. Furthermore, any development which has constructed infrastructure to explicitly provide service to a development shall be grandfathered for water service.
6. Retract expansion area in Southeast to instead reflect only the State Land agreement for additional services not the full expansion area depicted, thus decreasing the City's obligation outside City limits in Southeast.
7. Modify the Review Board process so that:
  - The Board reviews both 1) standard appeals for water service and 2) economic development exemption requests
  - The Board allows presentation of the case in person to the Board by the applicant.
  - The Board considers all relevant and pertinent facts in the case, not just whether Tucson Water followed the existing policy.
  - The Board makes a recommendation to the full Mayor and Council on all cases.
8. Clarify that the criteria that will be applied in reviewing appeals for the economic development exemption will mirror the criteria in the City's Primary Jobs Incentive Program.
9. Continue to pursue wheeling agreements in the southwest (with Metro) and southeast (with Vail Water) to provide options for customers in those areas to secure water service, and to further expand the use of renewable supplies in the region.

**DRAFT LIST OF RECOMMENDATIONS**  
**Refinements to City of Tucson Water Service Area Policy**  
**Submitted by Committee Member Vasquez**

1. Streamline the Pre-Annexation and Development Agreement (PADA) process running it parallel to water service review. The typical duration for a master and design water plan to navigate the review process is three months and performing this review up to the point of final approval while the PADA process takes place saves the owner/developer significant time. This enables the owner/developer to have an approved water plan immediately after PADA approval by Mayor and Council as opposed to waiting until the PADA approval to initiate plan review efforts. The applicant may submit for the purposes of review and approval, the water master plan prior to engaging in the PADA process.
2. Clarify that the 20 acre threshold for defining infill relates to net developable land on the property rather than gross acreage of the property. Net acreage is defined as gross acreage minus any deductions that are required by the jurisdiction, which includes but is not limited to rights of way, drainage, riparian areas, active and passive open space, and trails.
3. Increase the infill size threshold for commercial developments from 20 acres to 50 acres, which relates to the equivalent water demand for a 20 acre residential development. For the purposes of the Service Area Policy, mixed use developments shall be defined as commercial development.
4. Clarify that the infill criteria are only applied in the yellow (non-expansion) areas. The Tucson Water Service Area map shall be amended to reflect that economic development exemptions are granted to commercial and industrial parcels marked pink or pink hatched to ensure this land supply is highly marketable and shovel-ready for immediate development in order to support regional economic development efforts.
5. Clarify existing grandfather rights when infrastructure investment has already begun. If an applicant has constructed infrastructure in reliance on plans that have been approved by Tucson Water, then the associated master plan shall be vested and water service for the property assured. Furthermore, any development which has constructed infrastructure to explicitly provide service to a development shall be grandfathered for water service.
6. Retract expansion area in Southeast to instead reflect only the State Land agreement for additional services not the full expansion area depicted, thus decreasing the City's obligation outside City limits in Southeast.
7. Modify the Review Board process so that:
  - The Board reviews both 1) standard appeals for water service and 2) economic development exemption requests.
  - The Board allows presentation of the case in person to the Board by the applicant.
  - The Board considers all facts in the case, not just whether Tucson Water followed the existing policy and decides whether to grant the appeal or economic development exemption requests.
  - The applicant may appeal the Board's decision to the full Mayor and Council.
8. Deleted.
9. Continue to pursue wheeling agreements in the southwest (with Metro) and southeast (with Vail Water) to provide options for customers in those areas to secure water service, and to further expand the use of renewable supplies in the region. Regarding water service in the southwest area, Tucson Water will work with Metro Water and other water providers to clearly define boundaries inside of which each utility will commit to provide water service. Until a formal agreement is reached regarding water service area boundaries, Tucson Water will work with all affected parties and grant exemptions if necessary to enable projects to move forward.

**DRAFT LIST OF RECOMMENDATIONS**  
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**Recommended changes submitted by Committee Member Vasquez**

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2. Clarify that the 20 acre threshold for defining infill relates to net developable land on the property rather than gross acreage of the property. Net acreage is defined as gross acreage minus any deductions that are required by the jurisdiction, ~~which includes but is not limited to rights of way, drainage, riparian areas, active and passive open space, and trails.~~
3. Increase the infill size threshold for commercial developments from 20 acres to 50 acres, which relates to the equivalent water demand for a 20 acre residential development. ~~For the purposes of the Service Area Policy, mixed-use developments shall be defined as commercial development.~~ For mixed use developments, the 50 acre criteria will apply if the residential portion of the development is less than 20 acres.
4. Clarify that the infill criteria are only applied in the yellow (non-expansion) areas. ~~The Tucson Water Service Area map shall be amended to reflect that economic development exemptions are granted to commercial and industrial parcels marked pink or pink hatched to ensure this land supply is highly marketable and shovel-ready for immediate development in order to support regional economic development efforts.~~
5. Clarify existing grandfather rights when infrastructure investment has already begun. ~~If an applicant has constructed infrastructure in reliance on plans that have been approved by Tucson Water, then the associated master plan shall be vested and water service for the property assured.~~ Furthermore, any development which has constructed infrastructure to explicitly provide service to a development shall be grandfathered for water service.
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  - The Board considers all relevant and pertinent facts including whether or not a water master plan has been approved by Tucson Water.
  - The applicant may appeal the Board's decision to the full Mayor and Council.
8. Deleted.
9. ~~Continue to pursue wheeling agreements in the southwest (with Metro) and southeast (with Vail Water) to provide options for customers in those areas to secure water service, and to further expand the use of renewable supplies in the region.~~ Until a formal agreement is reached regarding water service area boundaries, Tucson Water will work with all affected parties and grant exemptions if necessary to enable projects to move forward. Regarding water service in the southwest area, Tucson Water will work with Metro Water and other water providers to clearly define boundaries inside of which each utility will commit to provide water service.

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